

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

JARMIRIAN BATISTA RODRIGUEZ, SAILYN
PENA, JORDANNIS COSME BATISTA, OLGA
JAIME, ORLANDO RODRIGUEZ and RAMON
LUIS SOTO, individually and on behalf of all others
similarly situated,

Plaintiffs,

- against -

ELECTRONIC DEALS, INC., S & V TRADING OF
NY, LTD., VOVOYA, INC. and GUY J. ESSES a/k/a
JOEY G. ESSES a/k/a GUY ASSIS,

Defendants.

Case No.: 21-cv-03110 (BMC)

**STIPULATION AND
~~PROPOSED~~ ORDER
REGARDING ISSUANCE OF
COLLECTIVE ACTION
NOTICE AND DISCLOSURE
OF CONTACT
INFORMATION**

Counsel for the Plaintiffs and Defendants (together the “Parties”), hereby stipulate and agree as follows:

WHEREAS, Plaintiffs filed a complaint on June 2, 2021 ([ECF No. 1](#)), asserting *inter alia* overtime claims under the Fair Labor Standards Act, [29 U.S.C. §§ 201](#), *et seq.* (“FLSA”); and

WHEREAS, Plaintiffs seek to furnish notice to hourly employees of Electronic Deals, Inc. who were employed at any time from June 2, 2018 to the present (the “FLSA Collective”); and,

WHEREAS, instead of expending resources litigating Plaintiffs’ anticipated motion for dissemination of notice pursuant to [29 U.S.C. § 216\(b\)](#), the Parties, without prejudice to Defendants’ right to challenge the conditional collective action at a later date, or any individual’s participation therein, have negotiated the terms of a proposed notice to be sent to members of the FLSA collective (the “Notice”), and the process for disseminating the Notice;

NOW THEREFORE, it is hereby stipulated and agreed as follows:

1. The Parties consent to dissemination of the Notice.
2. Defendants’ consent is made without prejudice, and shall not affect their right to move the Court to decertify the conditionally-certified collective, to challenge any individual’s

participation in the collective, or otherwise defend itself in this lawsuit to the fullest extent that it so chooses in its sole discretion.

3. Defendants do not waive their right to assert any and all available defenses, including but not limited to the defense that they are not liable for all or part of any alleged damages pursuant to the FLSA or that Plaintiffs fail to state a claim under the FLSA, or that a 2 year Statute of Limitations applies to Plaintiff's claims

4. Within ten (10) business days after the Court has "So Ordered" this Stipulation, Defendants shall provide to Plaintiffs' counsel the names, email addresses, and last known mailing addresses for the FLSA Collective as described above (the "Collective List").

5. Within ten (10) business days after Plaintiffs' counsel's receipt of the Collective List, Plaintiffs' counsel shall mail and email the proposed Notice (annexed hereto as Exhibit 1) and Consent to Join form (annexed hereto as Exhibit 2), in English and Spanish to each individual on the Collective List.

6. If any Notice mailed to any member of the FLSA Collective is returned as undeliverable, and there is no forwarding address, Plaintiffs' counsel will notify counsel for Defendants, and Defendants shall furnish, within five (5) business days of such notice, the individual's date of birth and social security number. Plaintiffs' counsel will take reasonable steps to obtain the individual's current address and promptly re-mail the Notice and Consent to Join to such individual. The social security number and date of birth will remain confidential and will only be used for the purposes of locating the putative collective member.

7. Plaintiffs' counsel shall promptly re-mail Notice to any member of the FLSA Collective whose Notice is returned as undeliverable, and where there is a forwarding address.

8. The individuals identified in the Collective List shall have 60 calendar days from the date on which the Notice is mailed (the “Opt-in Period”) to mail or email the Consent to Join form to Plaintiffs’ Counsel. If the Consent to Join form is mailed, it must be postmarked during the Opt-In Period in order to be timely.

9. Notwithstanding the time limits set forth above individuals whose initial Notice is returned as undeliverable and for whom a Notice is re-mailed shall have 30 additional calendar days from the date on which a second Notice is mailed to mail or email the Consent to Join form to Plaintiffs’ counsel.

10. Within five (5) business days of receipt of each timely Consent to Join form, Plaintiffs’ counsel shall electronically file such form via the Court’s electronic case filing system (“ECF”) on the docket in this matter. The address, telephone number, and email address may be redacted.

11. Within (5) business days after the close of the opt-in period, Plaintiffs’ counsel shall file a letter with the Court via ECF an opt-in list containing, for each individual who returned an opt-in form, (a) the opt-in Plaintiffs’ name, (b) date of original mailing, (c) date of re-mailing (if applicable), (d) date on which the opt-in period ended for said individual, (e) date on which the opt-in form was mailed or emailed to Plaintiffs’ counsel, (f) date on which the consent was filed via ECF, and (g) the Docket Number containing the individual’s consent form.

12. Plaintiffs’ counsel may only file timely Consent to Join forms, unless Defendant consents.

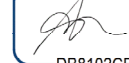
13. This stipulation shall be held in escrow by Plaintiffs’ counsel and may not be filed until September 9, 2021.

Dated: 9/2/2021

MOSER LAW FIRM, P.C.

Attorneys for Plaintiffs

DocuSigned by:



DB8102CE5833470...

By: Steven John Moser

5 E. Main Street

Huntington, New York 11743

516-671-1150

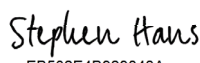
smoser@moseremploymentlaw.com

Dated: 9/7/2021

STEPHEN D. HANS & ASSOCIATES, P.C.

Attorneys for Defendants

DocuSigned by:



EB502E4B929843A...

By: Stephen D. Hans

30-30 Northern Blvd.

Suite 401

Long Island City, NY 11101

(718) 275-6700

shans@hansassociates.com

SO ORDERED: 9/15/21

Digitally signed by Brian

M. Cogan

BRIAN MARK COGAN, USDJ

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

**If you were employed by
ELECTRONIC DEALS, INC.
please read this notice:**

This is a court authorized notice. This is not a solicitation from a lawyer.

- Employees have filed a lawsuit against Electronic Deals, Inc. (“Electronic Deals”), claiming that they were not paid for break periods during which they clocked out for 20 minutes or less.
- The lawsuit is proceeding as a collective action on behalf of all current and former hourly employees who worked for Electronic Deals at any time after June 2, 2018.
- The Court has not decided whether Electronic Deals. did anything wrong. However, you have a choice to make now:

YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT	
ASK TO BE INCLUDED	<p>If you wish to be included, you must complete and mail or email the form at the end of this Notice before _____.</p> <p>If you mail or email the form at the end of this Notice, you keep the possibility of getting money or benefits that may come from this lawsuit, but you give up any rights to separately sue Electronic Deals for federal overtime claims.</p>
DO NOTHING	<p>By doing nothing, you will not be included in this collective action. This means that you give up the possibility of getting money or benefits that may come from a trial or settlement in this lawsuit if those bringing the lawsuit are successful. But you keep any rights to sue separately for federal overtime claims.</p>

Please read this notice carefully.

1. Why Did I Get This Notice

You are getting this notice because records show that you are an hourly employee who worked for Electronic Deals after June 12, 2018. The federal court in the Eastern District of New York has authorized this Notice. The court has taken no position regarding the merits of the Plaintiffs' claims or Defendants' defenses.

2. What are the Federal Overtime Claims?

The Plaintiffs are claiming that Electronic Deals violated federal overtime law because Electronic Deals did not pay its workers for breaks during which they clocked out for 20 minutes or less. Defendants deny these claims.

3. Has the Court decided who is right?

The Court has not decided whether the Plaintiffs or Defendants are correct. By approving the issuance of this Notice, the Court is not suggesting that Plaintiffs will win or lose the case.

4. What is a collective action and who is involved?

In a collective action lawsuit, one or more persons can bring a lawsuit on behalf of other employees. All hourly workers employed by Electronic Deals who return the opt-in form will be part of the "Collective." The Court resolves the case (or the case is settled) for everyone who decides to join the case.

5. What are the Plaintiffs asking for?

Plaintiffs are seeking to recover overtime wages, and an additional amount as "liquidated damages." Plaintiffs also are seeking recovery of attorneys' fees and costs.

6. Can I join this lawsuit?

To be eligible to join this lawsuit, you must have worked for Electronic Deals as an hourly employee after June 2, 2018.

7. What happens if I join this lawsuit?

If you join this lawsuit, you will be bound by any ruling, settlement, or judgment, whether favorable or unfavorable. If there is a favorable resolution or judgment, you will be entitled to some portion of the recovery.

If you join this lawsuit, you may be asked to give testimony and information about your work for Electronic Deals to help the Court decide whether you are owed money. Plaintiff's counsel will assist you with the process. For this reason, if you join this lawsuit, you should preserve all documents relating to your employment which are currently in your possession.

8. What happens if I do nothing at all?

You are not obligated to join this lawsuit. If you choose not to join this lawsuit, you will not be entitled to share any amounts recovered by Plaintiffs as part of this lawsuit. You will not be affected by any ruling, judgment or settlement rendered in this case, whether favorable or unfavorable. You also will be free to independently retain your own counsel and file your own individual lawsuit, subject to any defenses that might be asserted. You should be aware that your federal wage and hour claims are limited by a two or three-year statute of limitations, and delay in joining this action, or proceeding separately, may result in some or all of your claims expiring as a matter of law.

9. How do I ask to be included in the case?

Enclosed is a form called "Consent to join." If you choose to join, it is extremely important that you read, sign and promptly return the Consent to Join Form.

You are not required to consent and do not have to join this lawsuit. That is your choice.

If you do wish to join this lawsuit, and addressed envelope is enclosed for your convenience. Should the enclosed envelope be lost or misplaced, the Consent to Join Form must be mailed or emailed to:

Moser Law Firm, P.C.
Attn: Rodriguez v. Electronic Deals
5 East Main Street
Huntington, New York 11742
admin@moserlawfirm.com

The signed Consent to Join form must be postmarked or emailed by [60 days from mailing of this Notice]. If your signed Consent to Join Form is not postmarked or emailed by [60 days from mailing of the Notice], you will not participate in this lawsuit.

If you have questions about any information in this Notice, you may contact the Moser Law Firm.

10. Do I have a lawyer in this case?

If you choose to join this lawsuit and to be represented by the Plaintiff's counsel, then your attorney will be:

Steven J. Moser
Moser Law Firm, P.C.
5 East Main Street
Huntington, New York 11743
(516) 671-1150

steven.moser@moserlawfirm.com

If you decide to join this lawsuit you may also retain counsel of your choosing or you may represent yourself.

11. How will the lawyers be paid?

The named Plaintiffs have entered into a contingency fee agreement with Plaintiffs' counsel, which means that if you choose to be represented by Plaintiffs' counsel, and do not win, there will be no attorneys' fees or costs chargeable to you. Under the fee agreement, in the event there is a recovery, Plaintiffs' counsel will receive a percentage of any settlement obtained or money judgment entered in favor of all members of the class. The Court may also be asked to determine the amount of fees. The fees may be part of a settlement obtained or money judgment entered in favor of Plaintiffs, or may be ordered by the Court to be separately paid by the Defendants, or may be a combination of the two. A copy of the contingency fee agreement executed by the named Plaintiffs may be obtained upon request from Plaintiffs' counsel identified above.

12. Do the Defendants have Counsel in this Matter?

The Defendants are represented by:

Stephen D. Hans
Stephen D. Hans & Associates, P.C.
30-30 Northern Blvd.
Suite 401
Long Island City, NY 11101

13. Further Information

You may obtain further information about this case by calling the Moser Law Firm, P.C. at 516-671-1150, or by email to admin@moserlawfirm.com.

CONSENT TO JOIN/CONSENTIMIENTO A UNIRSE

THIS FORM MUST BE MAILED OR EMAILED ON OR BEFORE [60 DAYS AFTER MAILING OF ORIGINAL NOTICE, OR 30 DAYS AFTER RE-MAILING OF NOTICE, WHICHEVER IS LATER]

ESTE FORMULARIO DEBE ENVIARSE POR CORREO O POR CORREO ELECTRÓNICO EN O ANTES [60 DÍAS DESPUÉS DEL ENVÍO DE LA NOTIFICACIÓN ORIGINAL, O 30 DÍAS DESPUÉS DE VOLVER A ENVIAR LA NOTIFICACIÓN, LO QUE SEA POSTERIOR]

I consent to join the collective action brought in United States District Court for the Eastern District of New York entitled Rodriguez v. Electronic Deals, Inc., 21-cv-03110 (BMC) for purposes of asserting a claim under the Fair Labor Standards Act for overtime wages. I authorize the Moser Law Firm, P.C. to file this consent with the Clerk of the Court, with my address, telephone number, and email redacted. I agree to be bound by any adjudication by the Court or settlement of this action.

Doy mi consentimiento a unirme a la acción colectiva presentada en el Tribunal de Distrito de los Estados Unidos para el Distrito Este de Nueva York titulada Rodriguez v. Electronic Deals, Inc., 21-cv-03110 (BMC) con el fin de hacer una reclamación en virtud de la Ley de Normas Laborales Justas para salarios de horas extras. Autorizo al Moser Law Firm, P.C. a presentar este consentimiento ante el Secretario del Tribunal, con mi dirección, número de teléfono y correo electrónico redactados. Acepto estar obligado por cualquier decisión del Tribunal o acuerdo de esta acción.

Name
Address
Telephone
Email

If any of the above information is incorrect, please complete the following:
Si alguna de la información anterior es incorrecta, complete lo siguiente:

Name/Nombre: _____

Address/Dirección: _____

Telephone Number/Numero de teléfono: _____

Email/Correo electrónico _____

To be valid, this form must be signed/ Para ser válido, este formulario debe estar firmado.

X _____
Signature/Firma

Date

MAIL TO: MOSER LAW FIRM, PC
Attn: Rodriguez v. Electronic Deals
5 East Main Street
Huntington, NY 11743
516-671-1150
EMAIL: admin@moserlawfirm.com